

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ESTATE OF BENJAMIN C. NEWMAN; and  
JOSHUA GOLD, in his capacity as Executor of the  
Estate of Benjamin C. Newman,

Defendants.

Adv. Pro. No. 10-04764 (SMB)

**STIPULATION AND ORDER DISMISSING ADVERSARY PROCEEDING**

WHEREAS, on December 1, 2010, Irving H. Picard, as trustee (“Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* and the substantively consolidated estate of Bernard L. Madoff, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) against Benjamin C. Newman, subsequently substituted with the Estate of Benjamin C. Newman and Joshua Gold, in his capacity as Executor of the Estate of

Benjamin C. Newman, (collectively, “Defendants”) in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS, Defendants submitted to the Trustee a hardship application (the “Hardship Application”) requesting that the Trustee agree to dismiss the Adversary Proceeding. In support of the Hardship Application, Defendants submitted to the Trustee financial statements and other information, all under penalty of perjury; and

WHEREAS, in reliance on the representations made by Defendants in the Hardship Application and other representations and/or materials submitted by Defendants in support of the Hardship Application, the Trustee in the exercise of his due and deliberate discretion has determined to dismiss the Adversary Proceeding;

IT IS HEREBY agreed and stipulated between the Trustee and Defendants as follows:

1. Defendants hereby affirm (i) that all representations made by Defendants and all materials provided by Defendants have been submitted by Defendants as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to dismiss the Adversary Proceeding.

2. Defendants hereby agree that to the extent it is subsequently determined that Defendants deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Application, the Defendants hereby agree (i) that the Trustee shall have the right to reinstitute the Adversary Proceeding against Defendants and/or pursue other remedies available to him and (ii) that Defendants agree that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee’s commencement of any such claims and notwithstanding section 546(a) of the Bankruptcy Code, Defendants hereby agree to waive any statute of

limitations defense in any such actions or claims commenced by Trustee.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable by Fed. R. Bankr. P. 7041(a), the Trustee and Defendants hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, except as set forth in paragraph 2 hereof, Trustee's claims against Defendants are dismissed with prejudice.

4. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

5. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: May 23, 2014  
New York, New York

By: /s/ Nicholas J. Cremona

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Bernard L. Madoff Investment Securities  
LLC*

By: /s/ Martin B. Shulkin

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*Attorneys for Defendants Estate of  
Benjamin C. Newman and Joshua Gold, in  
his capacity as Executor of the Estate of  
Benjamin C. Newman*

By: /s/ Joshua Gold

Joshua Gold, in his capacity as Executor of  
the Estate of Benjamin C. Newman

**SO ORDERED:**

**By: /s/ STUART M. BERNSTEIN**  
**HON. STUART M. BERNSTEIN**  
**UNITED STATES BANKRUPTCY JUDGE**

**Date: May 23<sup>rd</sup>, 2014**